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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Trinity)

In re J.D., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.D.,

Defendant and Appellant.

C067509

(Super. Ct. No.
09JU0033)

The Trinity County Juvenile Court found minor J.D., then 16, was described by Welfare and Institutions Code¹ section 602 in that he committed misdemeanor battery (Pen. Code, § 242). J.D. was declared a ward of the court and committed to the county juvenile detention facility for 60 days with 27 days of credit. The juvenile court assigned various fines and fees,

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

including probation department costs of \$350, public defender fees of \$100, and \$15 per day in detention fees.

J.D. successfully completed probation, which was terminated with an outstanding balance of \$710 in jail, probation, and public defender fees. The juvenile court entered a civil judgment holding J.D. and his parents jointly and severally liable for the \$710 outstanding balance. J.D. timely appealed.

On appeal, J.D. contends the juvenile court erred when it: (1) included J.D. as jointly and severally liable for the outstanding fees, and (2) failed to separately list the fees with their statutory bases. We agree and shall reverse and remand for further proceedings.

PROCEDURAL BACKGROUND²

On January 18, 2011, the probation department filed a report with the juvenile court declaring J.D. had not violated court orders, had no further contact with law enforcement, had completed high school, and was considering attending community college. The report noted there was "an outstanding balance of \$710.00 owing in jail, probation and public defender fees," and recommended terminating probation and entering a civil judgment against the parents and J.D. for the unpaid balance.

J.D. objected to the proposed entry of civil judgment against him at the review hearing held on January 18, 2011. The case was continued for both parties to research the issue.

² We need not recite the facts of J.D.'s offense, as we need not consider them in order to decide this appeal.

At the continued hearing, held on February 1, 2011, neither the juvenile court nor the parties could cite any authority for the proposition that imposing joint and several liability for costs of wardship was appropriate as to a minor. After some musings, speculation, and debate by the court and counsel, as well as limited input by the probation officer and a "friend of the court," the court asked defense counsel: "Do you want to make an appellate court case out of this one?" Defense counsel answered, "Maybe," to which the court responded, "I understand. Somebody needs some answers. So I will order that the minor is jointly and severally liable for the \$710 cost to probation for his wardship."

No findings were made regarding ability to pay. A written order stated only that: "Civil judgment in the amount of \$710.00 is entered jointly and severally against the minor and his parents."

DISCUSSION

I

Liability as to J.D.

Sections 903, 903.1, and 903.2 impose liability for various costs of juvenile delinquency actions. Section 903 provides in pertinent part: "The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile

court. . . . The liability of these persons and estates shall be a joint and several liability." Employing essentially the same language, section 903.1 imposes liability on the same parties for the costs of legal services to the minor, and section 903.2 imposes liability for the costs of probation supervision.³

J.D. contends the juvenile court's order holding him jointly and severally liable for these costs is error.

The proper interpretation of a statute presents a question of law, and we therefore exercise our independent judgment in reviewing this matter. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562.) "The rules governing statutory construction are well settled. We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and

³ Section 903.1 provides in pertinent part: "The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the cost to the county or the court, whichever entity incurred the expenses, of legal services rendered to the minor by an attorney pursuant to an order of the juvenile court. . . . The liability of those persons (in this article called relatives) and estates shall be a joint and several liability."

Section 903.2 provides in pertinent part: "The juvenile court may require that the father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor shall be liable for the cost to the county of the probation supervision, home supervision, or electronic surveillance of the minor, pursuant to the order of the juvenile court, by the probation officer. The liability of these persons (in this article called relatives) and estates shall be a joint and several liability."

effectuate legislative intent. [Citations.] 'In determining intent, we look first to the language of the statute, giving effect to its "plain meaning."' [Citations] Although we may properly rely on extrinsic aids, we should first turn to the words of the statute to determine the intent of the Legislature. [Citation.] Where the words of the statute are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history. [Citation.]" (*Ibid.*)

"If the statutory language is clear and unambiguous, there is no need for construction. [Citation.]" (*Viking Pools, Inc. v. Maloney* (1989) 48 Cal.3d 602, 606.) "Despite the general rule that ambiguity is a condition precedent to interpretation, the literal meaning of the words of a statute may be disregarded to avoid absurd results or to give effect to manifest purposes that, in light of the statute's legislative history, appear from its provisions considered as a whole. [Citation.]" (*East Peninsula Ed. Council, Inc. v. Palos Verdes Peninsula Unified School Dist.* (1989) 210 Cal.App.3d 155, 166.)

J.D. asserts the statutory language of sections 903, 903.1, and 903.2 is clear, holding involved adults and their estates responsible for a minor but holding only a minor's estate liable. From this, J.D. concludes the Legislature intended to extend liability to a minor's estate, but not to a minor himself.

The People admit the statute refers only to a minor's estate, but asserts the statutory language is nonetheless

ambiguous because "it is not clear what it means to hold a minor's estate, as opposed to his person, liable for the costs of wardship." Since the Welfare and Institutions Code does not define "estate," the People argue for an expansive definition of the term to include the actual minor.

The People add that such a construction would resolve a potential conflict in the law. The civil judgment for the costs of wardship is enforceable as an ordinary civil judgment.

(§ 903.45, subd. (d).) Since an estate is not a natural person (*Estate of Brunet* (1949) 34 Cal.2d 105, 108-109; *City of Los Angeles v. Workers' Comp. Appeals Bd.* (2009) 179 Cal.App.4th 134, 146, fn. 7), the People claim the judgment cannot be enforced against J.D.'s estate. In order to avoid creating an unenforceable judgment, the People ask us to construe the statutes to extend liability to J.D. as well as his estate.

We are not persuaded. The Legislature clearly intended to draw a distinction between a minor and a minor's estate. If there were indeed no distinction between a person and his or her estate, then the statutes would not reference each separately when discussing liability for the costs of wardship. "Where reasonably possible, we avoid statutory constructions that render particular provisions superfluous or unnecessary. [Citations.]" (*Dix v. Superior Court* (1991) 53 Cal.3d 442, 459.)

The absence of a statutory definition for the term "estate" in the Welfare and Institutions Code does not render the statutes ambiguous. The Probate Code defines a minor's estate

as "both the money and the property belonging to the minor and the money and the property belonging to the guardianship estate, if any, of the minor." (Prob. Code, § 3400, subd. (a).) The term "estate" is used throughout the codes (see, e.g., § 742.16 [holding the minor or his estate liable for the costs of vandalism]; Prob. Code, §§ 56 [including estate in the definition of "person"], 2450, et. seq. [guardian's powers to manage the minor's estate]; Rev. & Tax Code, § 19 [including estate in the definition of "person"]; U. Com. Code, § 1201, subd. (28) [including estate in the definition of "organization"]), and courts have had no difficulty with the term's interpretation. (See, e.g., *Estate of Brunet*, supra, 34 Cal.2d at pp. 107-109; *In re Conservatorship of Hume* (2006) 139 Cal.App.4th 393, 397-399; *Estate of Glassford* (1952) 114 Cal.App.2d 181, 189-190.)

Nor is a judgment for the costs of wardship necessarily unenforceable against a minor's estate. In support of this claim, the People note the law governing enforcement of judgments. (Code Civ. Proc., §§ 680.010, et. seq.) The Code of Civil Procedure allows enforcement of a money judgment against "all the property of a judgment debtor." (Code Civ. Proc., § 695.010.) A "[j]udgment debtor" is defined as a "person against whom the judgment is rendered." (Code Civ. Proc., § 680.250.) The definition of "person" includes a natural person, corporation, partnership, other unincorporated associations, a general partner in a general partnership, a limited liability company, and a public entity, but not an

estate. (Code Civ. Proc., § 680.280.) Since an estate is not a natural person, the People conclude that limiting liability for the costs of wardship to J.D.'s estate would render the judgment unenforceable against the estate.

This argument ignores the simple fact that estates are liable for money judgments. Judgments against a decedent's estate are not governed by the Code of Civil Procedure, but are enforceable through the Probate Code (Code Civ. Proc., § 686.020; Prob. Code, §§ 9300, et. seq.), as is the minor's estate in a guardianship or conservatorship. (Code Civ. Proc., § 709.030; Prob. Code, §§ 1400, et. seq.)

It is clear that the Legislature intended to draw a distinction between a minor and his or her estate when assessing liability for the costs of wardship. We conclude that the juvenile court lacked authority to enter a judgment against J.D.⁴

⁴ J.D. had apparently turned 18 before the juvenile court ordered the civil judgment. The People ask us to clarify whether the fact of J.D.'s age *at the time of the hearing* affects the analysis as to the propriety of the civil judgment against him. Although the fact of J.D.'s age was mentioned in passing during the January 18 and February 1 hearings, the issue cannot have been said to have been raised in any meaningful way before the juvenile court. Thus the issue is forfeited. (*People v. Scott* (1994) 9 Cal.4th 331, 351-354; *In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. 2.) Further, neither party briefed on appeal the question of the potential effect of J.D.'s adulthood on the order. Issues not fully or properly briefed are forfeited, and we do not consider them. (*Alameida v. State Personnel Bd.* (2004) 120 Cal.App.4th 46, 59; *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.) It is also unnecessary for us to reach this issue since we are vacating the civil judgment.

II

Procedural Errors

The People point out that the juvenile court failed to determine the parents' and J.D.'s ability to pay before ordering the judgment. We agree. An order for financial responsibility can issue only after the parents, by means of an order to show cause, have had the opportunity to appear and present evidence that they are *not* financially able to pay. (§ 903.4, subds. (c), (d) & (e).) Here, this was not done.

Section 903.45 allows a county to designate a financial evaluation officer who is empowered to hold hearings to determine if a parent or other person liable for support has the ability to pay, and to petition the court for an order requiring that person to pay. The parent has the right to notice and a hearing before the county financial evaluation officer as to the parent's ability to pay, and a right to contest the officer's determination before the juvenile court. (§ 903.45, subds. (a) & (b).) At any time before satisfaction of a judgment entered

"The rendering of advisory opinions falls within neither the functions nor the jurisdiction of this court." (*People ex rel. Lynch v. Superior Court of Los Angeles County* (1970) 1 Cal.3d 910, 912.) We do not render advisory opinions, nor do we opine on matters not properly before us. Any remaining potential issues, including the effect of J.D.'s age as well as issues surrounding enforcement of any judgment that may be entered following remand, should *first* be brought to the *attention of* and *addressed by* the juvenile court. We encourage the parties and the juvenile court to fully investigate and litigate any outstanding issues, rather than merely "punting" to us for decision.

under section 903.45, the parent "may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment." (§ 903.45, subd. (c).)

The juvenile court did not comply with this procedure. Since the judgment for costs is predicated on the responsible person's ability to pay, the judgment must be vacated and remanded for proceedings consistent with sections 903.4 and 903.45.

Finally, J.D. asserts the juvenile court did not specify the statutory bases of the costs of wardship, in violation of our decision in *People v. High* (2004) 119 Cal.App.4th 1192 (*High*). Although *High* addressed the statutory bases of fines, fees, and assessments in the abstract of a criminal judgment (*High, supra*, 19 Cal.App.4th at p. 1200), the principle applies equally to the civil judgment for costs in a delinquency action. On remand, the juvenile court shall specify the statutory bases for the costs of wardship.

DISPOSITION

The civil judgment is reversed. The matter is remanded for proceedings consistent with this opinion.

We concur: DUARTE, J.

BLEASE, Acting P. J.

HULL, J.